

United States District Court

Eastern District of California

Donald Williams, et al.,

Plaintiffs, No. Civ. S 05-0501 MCE PAN P

vs. Order

T. Felker, et al.,

Defendants.

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Plaintiffs Williams and Burns are state prisoners without counsel litigating a civil rights action.

May 13, 2005, plaintiff Williams filed a motion to amend the complaint. May 19, 2005, the court denied the motion on the ground the proposed amended pleading was not signed by both plaintiffs.

June 2, 2005, plaintiff Williams filed a "response" characterizing himself as the "lead" litigant and asking court assistance in obtaining the signature of plaintiff Burns on the

1 proposed amended complaint.

2 A litigant appearing pro se has no authority to proceed on
3 behalf of any one other than himself. Russell v. United States,
4 308 F.2d 78, 79 (9th Cir. 1962); C.E. Pope Equity Trust v. United
5 States, 818 F.2d 696 (9th Cir. 1987).

6 The court will not assist plaintiffs in communicating with
7 one another because they could have filed, and still can file,
8 separate actions.

9 Plaintiffs moved March 14, 2005, to appoint counsel. In
10 proceedings that do not threaten a litigant with loss of physical
11 liberty, there presumptively is no right to appointed counsel.
12 Lassiter v. Department of Social Services, 452 U.S. 18, 26-27
13 (1981). Section 1915(e)(1) of Title 28 confers discretion upon
14 the court to request counsel represent an indigent civil
15 litigant. Mallard v. District Court, 490 U.S. 296 (1989).

16 In deciding whether to appoint counsel the court exercises
17 discretion governed by a number of factors, including the
18 likelihood of success on the merits and the applicant's ability
19 to present his claims in light of their complexity. Weygandt v.
20 Look, 718 F.2d 952, 954 (9th Cir. 1983); see also, LaMere v.
21 Risley, 827 F.2d 622, 626 (9th Cir. 1987). Ordinarily the
22 presumption of regularity in the state's procedures for confining
23 prisoners suggests a lack of likely success and counsels against
24 appointment of counsel. See Maclin v. Freake, 650 F.2d 885, 887
25 (7th Cir. 1981). As a general rule, the court will not appoint
26 counsel unless the applicant shows his claim has merit in fact

1 and law. Id. Even if the applicant overcomes this hurdle, the
2 court will not appoint counsel if the law is settled and the
3 material facts are within the plaintiff's possession, viz., they
4 do not require investigation outside the prison walls. Id. at
5 887-88.

6 Here, plaintiffs bring a laundry list of claimed
7 constitutional violations at High Desert State Prison. The law
8 governing these issues is settled and investigation outside the
9 prison walls is unnecessary to discover material facts. There
10 is, on the record before the court, no reason to believe
11 appointment of counsel would be of significant benefit.

12 Accordingly, plaintiffs March 14, 2005, motion for
13 appointment of counsel is denied. If plaintiffs fail to file an
14 amended complaint within 20 days the court will proceed with
15 screening the original pleading.

16 Dated: June 16, 2005.

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18 /s/ Peter A. Nowinski
PETER A. NOWINSKI
Magistrate Judge
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